



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

GOFFSTOWN EDUCATIONAL SUPPORT STAFF, *
NEA-NEW HAMPSHIRE *

Complainant *

v. *

GOFFSTOWN SCHOOL BOARD *

Respondent *

CASE NO. M-0577:1

DECISION NO. 86-29

APPEARANCES

Representing Goffstown Educational Support Staff
Marc Benson, UniServ Director

Representing Goffstown School District
Alan Hall, Esquire

Also in Attendance
Darrell Lockwood
Douglas McKenna
Pat Rousselle
Jeannine Laroche
Elmer Waitt

BACKGROUND

The Goffstown Educational Support Staff, NEA-New Hampshire ("Union") filed improper practice charges against the Goffstown School Board ("Board") on December 23, 1985, charging that the Board did break off negotiations and refused to continue, claiming the Union's certification was deficient. The Union alleges that the Board is in breach of RSA 273-A:5, I (a), (e) and (g) in that the Board is still obligated to negotiate under law.

In its answer, the Goffstown School Board alleged that the Union's correct name is now the "Goffstown Education Association Support Staff, NEA-New Hampshire" having changed its name after affiliating with the teachers' association, the Goffstown Education Association. The Board denied any breach of RSA 273-A, stated it was under no obligation to bargain since it has good reason to doubt the validity of the Certification of Representative and Order to Negotiate, dated September 18, 1985, issued by PELRB. The Board based its doubt of validity on the fact that the ballot was authorized to show a choice of "Goffstown Educational Support Staff, NEA-New Hampshire" and yet before the election, the Union had a meeting and voted to affiliate with the teachers association and changed its name

accordingly. The Board argues that such affiliation invalidates the election since no one could see such name on the ballot and that the Certification of Representation was rendered invalid by such affiliation and name changing.

The Board also filed a petition for declaratory judgement along the lines stated above. The Union filed a motion to dismiss the Request for Declaratory Judgement arguing that under the new code of administrative rules the PELRB should dismiss since the matter was pending in the unfair labor practice complaint.

A hearing was held at the PELRB office in Concord, N.H. on January 30, 1986 with all parties represented.

FINDINGS OF FACT

- (1) A Petition for Certification was filed by the Goffstown Educational Support Staff, NEA-New Hampshire with the PELRB on July 15, 1985 (M-0577).
- (2) After a pre-election conference, an election was ordered to be conducted on September 18, 1985 and a ballot was prepared giving eligible voters two choices: "No Representative" or "Goffstown Educational Support Staff, NEA-New Hampshire".
- (3) At the election on September 18, 1985, forty-three (43) unchallenged ballots were cast with the Union receiving twenty-two (22) and "No Representative" receiving twenty-one (21). Six ballots had been challenged and when opened five (5) were cast for the Union and one (1) for No Rep resulting in a final tally of twenty-seven (27) votes for the Union and twenty-two (22) votes for "No Representative".
- (4) A Certification of Representative and Order to Negotiate was issued on September 18, 1985 naming the "Goffstown Educational Support Staff, NEA-New Hampshire" as the exclusive representative for the employees in that bargaining unit.
- (5) Testimony at the hearing established that several teachers in the school district had helped members of the support staff, in May, June and July of 1985 to discuss organizing a union, filing necessary papers, talking to NEA staff, etc.
- (6) On approximately September 11, 1985 (a week before the election) teachers announced a meeting and invited support staff. Orally, although not in writing, the teachers made it known that the question of "affiliation" of the two unions would be discussed and voted upon. Testimony revealed that most, although not all, of the eligible voters were apprised of this action of "Affiliation". By paper ballot a vote was taken (ballots were accepted as evidence) and the outcome was twenty-three (23) in favor of "affiliation" and four (4) against.
- (7) Shortly thereafter the name of the Support Staff group was changed to "Goffstown Education Association Support Staff, NEA-N.H." and on September 26, 1985 the Union wrote to the School Board, informing the Board of the "affiliation" of the two unions.

- (8) The organization of the "affiliation" of the two unions (teachers and support staff) allows for a single constitution and by-laws but since there are two bargaining units, each has a separate bargaining process. All members of the affiliated organization have full rights of membership including potential election as officers of the organization.

On the School Board's request for findings of fact, #1-7, granted; #8-15 denied. With respect to the School Board's supplemental requests for findings of fact and rulings of law: #14(a) is denied; 14(b) and 14(c) are granted.

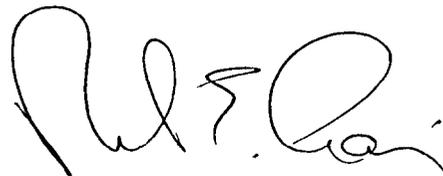
With respect to the Goffstown Educational Support Staff request for findings of fact, #1-8 and 14 are granted, #9-13 and 15 and 16 are denied.

RULINGS OF LAW

The PELRB rules that the meeting and the vote taken with respect to "affiliation" of the two bargaining units was not clear to all eligible voters as was the ballot prepared for the subsequent election. The results of this meeting and the vote taken are ambiguous. The subsequent election was not. The eligible voters clearly chose as their exclusive representative, "Goffstown Educational Support Staff, NEA-New Hampshire". Either the election was invalid or the "affiliation" was. We believe the election was valid and that the "affiliation" is not. The original "Certification of Exclusive Representative" remains in force and the employer is obligated to negotiate with the "Goffstown Educational Support Staff, NEA-New Hampshire. Should this properly constituted unit wish to change its name or "affiliation" it must do so in accordance with PELRB rules.

DECISION

1. We find no grounds for an unfair labor practice complaint in this case.
2. We decline to make further findings in this case, believing the request for declaratory judgement to be satisfied by this decision.



ROBERT E. CRAIG, Chairman

Signed this 29th day of April, 1986.

By unanimous vote. Chairman Robert E. Craig presiding. Members James C. Anderson, Seymour Osman and Richard Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.